

Certified Mail #: 7005 1820 0007 0239 0239

Scott Darryl Reese
c/o 329 Basket Branch
Oxford, Michigan state

May 09, 2007

Delphi Corporation
5725 Delphi Drive
Troy, Michigan 48098-2815
Attention: Delphi Corporation Tax Staff

To the Head Idiot(s), Delphi Corporation Tax Staff:

Firstly, let me congratulate you on your cowardice. The unsigned letter addressed to me, Affiant, whose name and address appear above, with the official Delphi letterhead/logo at the top dated April 24, 2007, and missing the rest of the customary address for prompt reply ... *nice one*. Also, the fact that it was sent in a similar nondescript envelope where someone went to a lot of trouble to cut the return address off of everything except the word "DELPHI", and leave nothing other than the postal ZIP-Code (48071, which is Madison Heights, by the way, and the envelope is dated April 26, 2007) ... *classic*. Who's the secretary who got the extended lunch to go out of her way to mail this one (and probably to additionally compose the "response letter")?

Secondly, stating that you've received my letter and reviewed it, ostensibly the one titled "***Notice to General Motors/Delphi Automotive Payroll Services 04-09-07***", (hereinafter "***Notice of April 9***") dated April 9, 2007, with Certified Mail #: 7005 1820 0007 0239 0178, while the first part of the statement – the having received it – may be true, I have my doubt as to whether or not you've read it, and if you have, you certainly don't understand statutory law or the rules of statutory construction (most attorneys seem not to these days).

Regarding "I.R.C. §6332(a) requires that we honor the IRS levy." **Answer: NO, IT DOESN'T.** I.R.C. §6331(a) states (and since you already have a copy of "***Notice of April 9***", I'm redacting the first part), "Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official."

Your response letter goes on. It states, "Once an employer is served with a notice of levy, the employer must surrender wages or salary to the District Director on the same date that the employer would otherwise have paid the taxpayer. Treas. Reg. §301.6331-1(b)."

If the position of DELPHI et. al., and Delphi Corporation Tax Staff, is that:

- 1) DELPHI et. al., and Delphi Corporation Tax Staff, is an "employer" (as defined in section 3401(d)), and

- 2) I'm an employee (26 U.S.C. §3401(c) "employee") working for such "employer", and/or
- 3) I'm an *officer, employee, or elected official* (FEDERAL REGISTER, Tuesday, September 7, 1943, Page 12267), and
- 4) as such an employee (26 U.S.C. §3401(c) "employee") working for such "employer", I would have the requisite oath of office, commission, and bond on file, and/or
- 5) I've earned any 26 U.S.C. §§ 3401(a) and/or 3121(a) "wages" while working for private sector company DELPHI et. al., (or any other private sector company, for that matter), and
- 6) such "wages" are associated with a 26 U.S.C. §7701(a)(26) "Trade or Business" ("every employer engaged in a trade or business" is engaged in "the performance of the functions of a public office"), and
- 7) private sector company DELPHI et. al., PAYED OUT any 26 U.S.C. §§ 3401(a) and 3121(a) "wages" while I've been working for said private sector company, and
- 8) such "wages" are associated with a 26 U.S.C. §7701(a)(26) "Trade or Business" ("every employer engaged in a trade or business" is engaged in "the performance of the functions of a public office"), and
- 9) DELPHI et. al., is/are able to act as a 26 U.S.C. §§5005, 6051(a) "withholding agent", and
- 10) DELPHI et. al., acting as a 26 U.S.C. §§5005, 6051(a) "withholding agent", would have the necessary oath of office, commission and bond on file of any of it's "officers", whether elected or appointed, and
- 11) working for private sector company DELPHI et. al., or any other private sector company, constitutes a taxable activity, and
- 12) Affiant is a 26 U.S.C. §7701(a)(14) "taxpayer" (any person subject to any *internal revenue tax* – DELPHI et. al., and Delphi Corporation Tax Staff, seem to making a legal conclusion that Affiant is a taxpayer), and
- 13) DELPHI et. al., acting as a 26 U.S.C. §§5005, 6051(a) "withholding agent", contacted *Office of Chief Counsel* for the IRS, to verify the veracity of its beliefs regarding 1) through 12) above, and
- 14) DELPHI et. al., and Delphi Corporation Tax Staff, believe any of the points at 1) through 12) above, then sign all future responses, replies, or correspondence, along with a printed name, and your title, plainly visible. As the great actor Mel Gibson said in *Payback* (great movie, by the way), "You go high enough, you always come to one man." I'm looking for the same "one man" in charge.

Revisiting the beginning of your response dated April 24, 2007, you state:

“Once an employer is served with a notice of levy, the employer must surrender wages or salary to the District Director on the same date that the employer would otherwise have paid the taxpayer. Treas. Reg. §301.6331-1(b).”

Again, that inability of most attorneys-at-law to be able to read. First of all, the “code” as it appears at I.R.C. §6332 in its entirety barely exceeds one page, which leads me to believe that:

- a) You didn’t read it, meaning that you’re intellectually lazy, or
- b) You had someone else compose your response, or
- c) Both a) and b).

What I.R.C. §6332 DOES SAY, beginning with I.R.C. §6332(a):

“Except as otherwise provided in this section, any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary, surrender such property or rights (or discharge such obligation) to the Secretary, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.”

DELPHI et. al., and Delphi Corporation Tax Staff, probably and, wrongfully, believe that they’re the “any person in possession of property or rights to property subject to levy upon which a levy has been made”, judging by the response dated April 24, 2007. I.R.C. §6332(a) also states that “surrender [of] such property or rights (or discharge such obligation) [shall be made] to the Secretary ...”, and yet, it sounds as if DELPHI et. al., and Delphi Corporation Tax Staff, has surrendered Affiant’s private sector earnings to the “District Director.”

Since DELPHI et. al., and Delphi Corporation Tax Staff, seem fond of citing case law and code, I include some now*:

- TITLE 18; CHAPTER 31 - EMBEZZLEMENT AND THEFT;
Sec. 654. Officer or employee of United States converting property of another.
- 119 Stat. 220.
- 120 Stat. 240; 120 Stat. 288.
- 48 Stat. 794.
- Any other applicable citations.

* A FOIA Request will determine who received my private earnings from DELPHI et. al., and Delphi Corporation Tax Staff.

Moving on with the rest of your response dated April 24, 2007, you state:

“I.R.C. §6332(e) provides that if we honor the levy, we are relieved of any liability to you.
“I.R.C. §6332(d) provides that if we do not honor the levy, we are liable to the United States for the amount specified in the levy.”

(f) Person defined

“The term “person,” as used in subsection (a), includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation.”

If DELPHI et. al., and Delphi Corporation Tax Staff, are deluding yourselves that the “person” mentioned at I.R.C. §6332(f) includes a Michigan* Corporation or Michigan* L.L.C. – the true “we” (*or other of the 50 states of the union), as opposed to an elected or appointed “officer, employee, or member,” I suggest a reading of the actual Statutes at Large and Federal Register.

As a “Michigan Corporation”, DELPHI et. al., and Delphi Corporation Tax Staff, are definitely NOT “relieved of any liability” to Affiant. You’re a creature of the authority that created you.

By the way, here’s I.R.C. §6332(d)(1) in its entirety, the authority that DELPHI et. al., and Delphi Corporation Tax Staff are presumably acting under, with all emphasis mine:

(d) Enforcement of levy; (1) Extent of personal liability

“Any *person* who fails or refuses to surrender any property or rights to property, subject to levy,** upon demand by the Secretary,*** shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the underpayment rate established under section 6621 from the date of such levy (or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer). Any amount (other than costs) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.”

** I know from the previous “*Notice to General Motors/Delphi Automotive Payroll Services 04-09-07*”, (“*Notice of April 9*”) dated April 9, 2007, with Certified Mail #: 7005 1820 0007 0239 0178, that DELPHI et. al., and Delphi Corporation Tax Staff, are fully aware of just who is subject to levy at I.R.C. §6331(a), Levy and distraint (again, emphasis mine):

“Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.”

*** I'm guessing that DELPHI et. al., and Delphi Corporation Tax Staff, don't actually have anything signed with the authority or "upon demand by the Secretary" regarding any levy in Affiant's name. Due diligence upon the part of DELPHI et. al., and Delphi Corporation Tax Staff, by making reasonable inquiry under the circumstances to Office of Chief Counsel, Internal Revenue Service, Office of Operating Division Counsel/Associate Chief Counsel, Tax Exempt and Government Entities, 1111 Constitution Avenue, NW., Washington, DC 20224, Telephone: 202-622-6040, would most certainly support my belief that nothing of the kind exists (and I'd get O.C.C. to sign something to this effect, if I were DELPHI et. al., and Delphi Corporation Tax Staff).

Continuing on with the rest of your response dated April 24, 2007, you state:

"The courts have consistently held that employers are not liable when they honor a levy."

No argument here. I doubt, however, that DELPHI et. al., and Delphi Corporation Tax Staff know what the term "employer" entails.

Then, proceeding, you state:

"While we are not providing you with legal advice, the arguments you raise regarding I.R.C. §3401 have been held invalid for some time. Sullivan v. United States, 788 F.2d 813 (1st Cir. 1986); Peth v. Breitzman, 611 F. Supp. 50 (E.D. WI 1985)."

To be accurate, I'm going to break this down piece by piece:

"While we are not providing you with legal advice ..."

• This is indeed most wise, since I don't think you're qualified to give advice to a first grader.

"... the arguments you raise ..."

• Affiant raises no arguments; he cites only the law. Affiant also knows the rules of statutory construction, unlike, it would seem, "Delphi Corporation Tax Staff."

" ... regarding I.R.C. §3401 have been held invalid for some time ..."

• Still going with that, "We're not actually going to READ Section 3401 to see what it actually says" thing, huh? "The position of DELPHI et. al., and Delphi Corporation Tax Staff is that we ARE a federal corporation or instrumentality, and/or have a nexus with thereof." Good luck with that.

" ... Sullivan v. United States, 788 F.2d 813 (1st Cir. 1986) ..."

• Ah, yes, Sullivan v. United States.

“To the extent Sullivan argues that he received no “wages” because he was not an “employee” within the meaning of 26 U.S.C. §§ 3401(c), that contention is meritless. Section §§ 3401(c), which relates to income tax withholding, indicates that the definition of “employee” includes government officers and employees, elected officials, and corporate officers. The statute does not purport to limit withholding to the persons listed therein.” Sullivan, supra.

- I’ll take the last part, “The statute does not purport to limit withholding to the persons listed therein,” first. This, of course, is a true statement. The opinion of DELPHI et. al., and Delphi Corporation Tax Staff seems to be that “Withholding applies to everybody, period, and it matters not that DELPHI et. al., and Delphi Corporation Tax Staff are not a federal corporation or instrumentality, and/or have a nexus with any thereof.” Again, good luck to you there. Answers to *Freedom of Information Act Request(s)* composed by Affiant and sent to the IRS and others will easily dispose of any notions that DELPHI et. al., and Delphi Corporation Tax Staff are a federal corporation or instrumentality, and/or have a nexus with one thereof (and why DELPHI et. al., and Delphi Corporation Tax Staff, through due diligence, should have done the same).

It also seems to be the opinion of DELPHI et. al., and Delphi Corporation Tax Staff, that Affiant’s private earnings while working for DELPHI et. al., a private sector company, constitute a privileged taxable activity. If this is indeed your position (and it’s hard to speculate, as parts of your response dated April 24, 2007, seem to have been composed by someone in the IRS organization, or the government – or by somebody equally not very bright), then you will be called upon to testify to this under oath and penalty of perjury when the appropriate time comes.

But I digress. Continuing with *Sullivan*:

“... taxpayer did not submit actual tax return or schedule for profit or loss from business or profession... Sullivan filed with the IRS a letter entitled “Request for Refund of Income Tax,” and two attached documents entitled “Income Tax Refund Statement for the Tax Year 1983,” and “Business Income/Loss Statement for the Tax Year 1983.” In the letter, Sullivan stated that he was a “natural individual and un-enfranchised freeman” who “neither requested, obtained, nor exercised any privilege from an agency of government” for taxable year 1983... Sullivan reported no income from “wages, tips, [or] other compensation”, even though two Forms W-2 he attached indicated that he had received \$32,502.32 in “wages, tips, [or] other compensation.”

Also of significance to the instant case which DELPHI et. al., and Delphi Corporation Tax Staff failed to quote:

“Sullivan’s purported return **facially indicated** (bold added) that his self-assessment was incorrect, and that his position was frivolous. The attached Forms W-2 show that Sullivan received wages totaling \$32,502.32 in 1983, yet he reported no income from wages on the purported return.”

Also:

“Here, the only questions to be resolved were whether the documents Sullivan filed amounted to a purported return under section 6702, whether the purported return contained information that on its face indicated that the self-assessment was substantially incorrect, and whether Sullivan’s position was frivolous.”

To sum up: The belief by DELPHI et. al., and Delphi Corporation Tax Staff, in relation to *Sullivan* “... regarding I.R.C. §3401 have been held invalid for some time ...”, and that the matter of *employee*, *employer*, and *wages*, etc., as are all statutorily defined, are an issue of *stare decisis*, well, just go ahead and continue that belief. *Sullivan* submitted many affirmative defenses.

And, just about “finally”:

In the last sentence of your response dated April 24, 2007, you state:

“You should also note that taxpayers who pursue arguments lacking any basis can be sanctioned with penalties.” *See*, I.R.C. §§6673 and 6702.

Really? To hell, you say? (I’m really resisting the urge to put in something equally as meaningless as this, but the fact that you don’t comprehend the basic concepts of law at issue here is self evident ...) If you’re implying that we’re going to have to settle this in court, well, plan on bringing your books and papers. (And the “IRS”, the “United States”, and the “United States of America” will not be a party to the action, as they will not have any standing.)

Also, under Michigan Public Act 397 of 1978 and Michigan Public Act 442 of 1976:

- Provide me with the statute that allows you to disregard my “In lieu of IRS Form W-4” and “W-4 Qualifying Declaration” paperwork on file since September of 2006, or
- Provide me with a copy of the authority, either signed or not, with the party’s name and title, and badge of authority, that allows you to disregard my “In lieu of IRS Form W-4” and “W-4 Qualifying Declaration” paperwork on file since September of 2006, and
- Provide me with the copies of all “withholding” paperwork filed in September of 2006, including, but not limited to, “IRS Form W-4” “In lieu of IRS Form W-4” and “W-4 Qualifying Declaration”, and
- Provide me with the statute that allows DELPHI et. al., and Delphi Corporation Tax Staff, to steal, withhold, or in any way take ANY of my personal, private paycheck, and the maximum rate/the maximum percentage at which DELPHI et. al., and Delphi Corporation Tax Staff, are able to do so, and
- Provide me with copies of everything sent to or received by the IRS with my name attached. This is applicable, though not limited, to judgments where the IRS appears as “Plaintiff,” also.

Also:

- If DELPHI et. al., and Delphi Corporation Tax Staff, really believe any of the nonsense sent to me to try to justify it sending my private paycheck to a third party, sign all future correspondence and declarations to this effect.
- DELPHI et. al., and Delphi Corporation Tax Staff, should notice that they are in violation of union contract(s) for a certain amount of pay for a certain amount of work performed.
- DELPHI et. al., and Delphi Corporation Tax Staff, are a party to stealing and receiving stolen property. Under Michigan Public Act 397 of 1978; Michigan Public Act 442 of 1976, demand is hereby made to know how much of Affiant's private pay has been received by the District Director, or other, from DELPHI et. al., and Delphi Corporation Tax Staff, along with the name, title, and badge of authority of recipient.
- It probably never occurred to DELPHI et. al., and Delphi Corporation Tax Staff, but if the IRS had a valid claim against any of my private paycheck, they would have gone to court to obtain one. I have more than the twenty-four grand which you're planning on stealing from me in an IRA/pension fund/annuity, which the IRS knows fully about. I wonder why they didn't just take that, instead of soliciting your compliance to steal my property?

And finally (I've always wanted to say this), "While I'm not providing you with legal advice, I suggest you seek competent legal counsel." I don't think the "Whoops! Sorry! My Bad!" defense is going to fly too well in court. Any failure to respond to this in part or in whole shall constitute a lack of bad faith on the part of DELPHI et. al., and Delphi Corporation Tax Staff, and that DELPHI et. al., and Delphi Corporation Tax Staff don't have a good faith belief of the applicability to Affiant of the citation(s) indicated.

As always, sign and date any and all mailings, and with legible and true printed name and title, with return contact information, address and phone number.

I do hereby certify that, to the best of my knowledge and belief, and under the penalty of perjury, the enclosed information is true, correct and complete.

Date

Scott Darryl Reese – Affiant

Subscribed to and sworn before me this _____ day of _____, 200____.

Notary Public, _____ County, Michigan.

My Commission Expires: _____